

REMARKS

Applicants have carefully reviewed the Application in light of the final Office Action transmitted September 19, 2008 ("*Office Action*") and the Advisory Action and Notice of Non-Compliant Amendment transmitted December 18, 2008. Claims 1-54 are pending in the Application, and the Examiner rejects all pending claims. Applicants respectfully request reconsideration of the pending claims and favorable action in this case.

I. Double Patenting

Claims 1-54 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over Claims 1-34 of copending Application No. 10/804,528 (now allowed). Applicants do not necessarily agree with or acquiesce to the Examiner's comments regarding the claims of the present Application or their purported relationship to the claims of the copending Application No. 10/804,528. Enclosed with this Response, however, is a Terminal Disclaimer in compliance with 37 C.F.R. § 1.321(c) to overcome the obviousness-type double patenting rejection. Reconsideration and withdrawal of the double patenting rejection of these claims is respectfully requested.

Claims 1, 3, 4, 14, 27, 40, 41, 42, 53, and 54 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over Claims 1, 8, 15, 22, 29, and 31 of copending Application No. 10/804,528 (now allowed) in view of U.S. Patent No. 4,663,748 to Karbowski, et al. ("*Karbowski*"). The *Office Action* then explains its rejection with respect to copending Application No. 10/804,555 in view of *Karbowski*. Applicants assume for purposes of this response that the Examiner's citation of copending Application No. 10/804,528 in the first instance was a typographical error and that the Examiner intended to cite copending Application No. 10/804,555. Applicants do not necessarily agree with or acquiesce to the Examiner's comments regarding the claims of the present Application or their purported relationship to the claims of the copending Application No. 10/804,555 or *Karbowski*. Enclosed with this Response, however, is a Terminal Disclaimer in compliance with 37 C.F.R. § 1.321(c) to overcome the obviousness-type double patenting rejection.

Applicants' enclosed Terminal Disclaimer complies with each of the three requirements listed in 37 C.F.R. 1.321(c), which recites:

(c) A terminal disclaimer, when filed to obviate a judicially created double patenting rejection in a patent application or in a reexamination proceeding, must:

- (1) Comply with the provisions of paragraphs (b)(2) through (b)(4) of this section;
- (2) Be signed in accordance with paragraph (b)(1) of this section if filed in a patent application or in accordance with paragraph (a)(1) of this section if filed in a reexamination proceeding; and
- (3) Include a provision that any patent granted on that application or any patent subject to the reexamination proceeding shall be enforceable only for and during such period that said patent is commonly owned with the application or patent which formed the basis for the rejection.

With respect to the first requirement, Applicants' terminal disclaimer complies with paragraphs (b)(2) through (b)(4), which require the terminal disclaimer to specify the portion of the term of the patent being disclaimed, state the present extent of applicants' ownership interest in the patent to be granted, and be accompanied by the fee set forth in § 1.20(d). In accordance with this requirement, Applicants' terminal disclaimer specifies that the terminal part of any patent which may grant from copending Application No. 10/804,528 and/or copending Application No. 10/804,555 is being disclaimed, it states that copending Application No. 10/804,528 and copending Application No. 10/804,555 are assigned to and owned by Fujitsu Limited, and it is accompanied by the fee set forth in § 1.20(d).

With respect to the second requirement, Applicants' terminal disclaimer complies with paragraph (b)(1). Paragraph (b)(1) requires a signature by either the applicant, the assignee of record of an undivided part interest and the applicant, the assignee of record of the entire interest, or an attorney or agent of record. In accordance with this requirement, Applicants' terminal disclaimer is signed by the assignee of record of the entire interest.

With respect to the third requirement, Applicants' terminal disclaimer fully complies with this requirement because it includes a provision that any patent granted on the present application shall be enforceable only for and during such period that said patent is commonly owned with copending Application No. 10/804,528 and/or copending Application No. 10/804,555. Accordingly, Applicants respectfully submit that the enclosed terminal disclaimer complies with all three requirements of 37 C.F.R. 1.321(c).

Moreover, where the assignee of a patent application signs the terminal disclaimer, there is an additional requirement to comply with 37 C.F.R. 3.73(b). Section 3.73(b) requires the assignee to establish its ownership interest by specifying the reel and frame number

designating the location of evidence of a chain of title from the original owner to the assignee. Accordingly, Applicants' terminal disclaimer complies with 37 C.F.R. 3.73(b) because it specifies the reel and frame numbers for both copending Application No. 10/804,528 and copending Application No. 10/804,555. In light of the compliance of Applicants' terminal disclaimer with all requirements, Applicants' respectfully request reconsideration and withdrawal of the double patenting rejection of these claims.

CONCLUSION

Applicants have made an earnest attempt to place this case in condition for allowance. For the foregoing reasons and for all other reasons clear and apparent, Applicants respectfully request reconsideration and allowance of this Application.

If the Examiner feels prosecution of the present Application may be advanced by a telephone conference, Applicants invite the Examiner to contact the undersigned attorney at (214) 953-6584.

Although no fees are believed to be due, the Commissioner is hereby authorized to charge any fees or credit any overpayments to Deposit Account No. 02-0384 of Baker Botts L.L.P.

Respectfully submitted,

BAKER BOTTS L.L.P.
Attorneys for Applicants

A handwritten signature in black ink, appearing to read 'K-P', with a horizontal line extending to the right.

Kurt M. Pankratz
Reg. No. 46,977

Date: December 29, 2008

Customer No. **05073**